

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

JEFFRY L. SMITH,

Plaintiff,

v.

Docket No:

ROCK-TENN SERVICES, INC.,

(Jury Trial Requested)

Defendants.

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**COMPLAINT**

Plaintiff, Mr. Jeffry L. Smith ("Mr. Smith" or "Plaintiff"), by and through the undersigned counsel, for his Complaint against the RockTenn Services, Inc. ("Defendant"), alleges as follows:

1. This is an action for declaratory and monetary relief caused by Defendant's violations of the Tennessee Human Rights Act ("THRA"), T.C.A. § 4-21-101 *et seq.* and Tennessee's common law prohibition against wrongful termination. The discharge claims are related to Mr. Smith's constructive discharge that was a direct result of Defendant's failure to provide a safe work environment after Mr. Smith made complaints and objections concerning ongoing sexual harassment and an assault by a co-worker.<sup>1</sup>

**JURISDICTION AND VENUE**

2. Jurisdiction over this action is conferred on this Court by 28 U.S.C. § 1332.
3. This Court is the proper venue for this action pursuant to 28 U.S.C. § 1391(b).

**PARTIES**

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<sup>1</sup> Plaintiff currently has charges pending with the EEOC concerning violations of Title VII as well. He intends to amend this complaint after those charges have been administratively exhausted.

4. Plaintiff, Jeffry Smith was an employee of Defendant, within the meaning of T.C.A. § 50-1-304 from August 2, 2010 to September 26, 2011.

5. Defendant Rock-Tenn Services, Inc. is a Georgia corporation with its principal place of business in Norcross, Georgia. Defendant is an employer within the meaning of the THRA and TPPA.

### **FACTUAL BACKGROUND**

6. During the time that Mr. Smith worked at Rock-Tenn, Mr. Smith was subjected to assault, battery and ongoing and severe sexually harassing behavior by a male co-worker from approximately late 2010 to June 2011.

7. Mr. Smith complained on multiple occasions to management about the assault, battery and sexual harassment by the co-worker and management acknowledged the co-worker had a history of assaulting and/or sexually harassing other male employees.

8. Despite having knowledge that its male employee has assaulted and sexually harassed Mr. Smith and other male employees, RockTenn failed to take steps to provide a safe environment to their male employees and has in fact failed to provide a safe work environment free from assault, battery and sexual harassment.

9. As a result of RockTenn's failure to provide a safe work environment, Mr. Smith was constructively discharged on September 26, 2011.

### **COUNT I** **(Sex Harassment under the THRA)**

10. Plaintiff restates and incorporates herein the allegations in the above paragraphs.

11. Plaintiff was subjected to a continuing and on-going campaign of sex harassment in Defendant's workplace because of his sex, male.

12. Plaintiff reported and/or protested incidents of harassment and assault by a co-worker to Defendant's management, the reports were either ignored or rebuffed. Defendant failed to remedy and/or prevent sex harassment in the workplace.

13. Defendant is vicariously liable for the sexual harassment perpetrated by its employee to Plaintiff, and is liable for failing to remedy sex harassment in the workplace.

14. As a direct and proximate result of Defendant's unlawful acts, Plaintiff suffered and continues to suffer emotional pain, suffering, professional and personal embarrassment, humiliation, loss of enjoyment of life, inconvenience and lost earnings and benefits.

## **COUNT II**

### **(Common Law Wrongful Termination & Retaliation under TPPA & THRA)**

15. Plaintiff restates and incorporates herein the allegations in the above paragraphs.

16. It is the public policy and law of the State of Tennessee that employees must be able to exercise their rights under state and federal law without fear of reprisal or penalty from an employer.

17. Contrary to public policy and the common law of the State of Tennessee, as well as in violation of the TPPA and the THRA, Plaintiff was constructively discharged for objecting to and complaining about Defendant's failure to remedy the assault, battery and sexual harassment taking place in the workplace.

18. The termination of Plaintiff was in direct retaliation for the exercise of his rights to oppose, object and report the ongoing assault, battery and sexual harassment in the workplace.

The wrongful, retaliatory termination of Plaintiff was intended to and had the effect of stifling Plaintiff, and possibly other employees, from exercising protected rights.

19. As a result, Plaintiff has been damaged and is entitled to recover damages, including, but not limited to, lost wages, emotional distress, consequential damages, punitive damages, attorney's fees, costs, interest and any other legal and equitable relief to which he may be entitled.

**PRAYER FOR RELIEF & JURY DEMAND**

WHEREFORE, premises considered, Plaintiff prays for the following relief:

- A. Monetary award of damages for Lost Back Pay;
- B. Reinstatement or Front Pay;
- C. Pre- and post judgment interest;
- D. Compensatory Damages and Punitive Damages;
- E. Attorney's fees and costs, and expenses of the action;
- F. All other legal and equitable relief to which Plaintiff shows he is entitled, and which is just and proper; and
- G. A jury trial.

Respectfully submitted,

**COLLINS LAW FIRM**

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